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CV 12 - 1492

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

2012 MAR 27 PM 12:22

FILED
CLERK

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

Cox and Company Inc.,
a New York Corporation

Plaintiffs

vs.

A.M. Kinney Associates LLC
an Ohio Limited Liability Company

Defendant

Civil Action No.

BIANCO, J.

COMPLAINT

BROWN, M. J.

Plaintiff, Cox and Company Inc., located at 1664 Old Country Road, Plainview NY 11803, by way of this Complaint says:

INTRODUCTION

1 This is a civil action whereby Plaintiff seeks damages for goods and services performed/ manufactured in the State of New York, Nassau County, and delivered to the defendant A.M. Kinney Associates LLC, an Ohio Limited Liability Company with its principal offices at 150 East 4th Street, 6th Floor, Cincinnati, OH 45202.. An actual controversy exists between the parties, in that the actions and omissions of the defendant has caused and will continue to cause the plaintiff harm unless the requested relief is granted.

JURISDICTION AND VENUE

2. Jurisdiction of this court arises under 28 U.S.C. § 1331 based upon diversity of citizenship in that the parties are citizens of differing states and the amount in controversy is in excess of \$75,000.

3 The relevant acts relating to the ordering, manufacturing and rendering of services occurred in Nassau County in the State of New York, which is located within this District. Venue is proper, because many of the relevant events occurred within this District

4. This is an action brought by a provider of goods and services for breach of contract, the existence of a book account, the existence of an account stated, for quantum meruit and unjust enrichment. Thus, the plaintiff seeks damages and, to the extent possible.

FIRST COUNT

5. At all times mentioned, Defendant, A.M. Kinney Associates LLC has been an Ohio Limited Liability Company with its principal offices at 150 East 4th Street, 6th Floor, Cincinnati, OH 45202.

6. The Plaintiff and the Defendant, entered into an agreement wherein the Plaintiff would provide the Defendant with various goods and services.

7. Plaintiff continued to provide said work to the Defendant, but the Defendant, failed and/or refused to pay the Plaintiff for such services.

8. There is due from the Defendant the sum of \$120,035.00 on said book account, a copy of which is attached hereto as Exhibit "A."

9. The Plaintiff has demanded payment in the sum of \$120,035.00 and the Defendant has failed and/or refused to make said payment.

WHEREFORE, Plaintiff demands judgment against Defendant, A.M. Kinney Associates LLC., for damages, together with attorney's fees and costs of suit and such other and further relief as the Court may deem proper.

SECOND COUNT

10. The Plaintiff repeats each and every allegation as set forth in the First Count of the Complaint as if fully set forth herein

11. The Plaintiff sues the Defendant for services rendered by the Plaintiff to the Defendant upon the promise by the Defendant to pay the agreed amount.

12. Payment has been demanded but Defendant failed and/or refused to pay Plaintiff for such services.

13. There is due from the Defendant the sum of \$120,035.00.

WHEREFORE, Plaintiff demands judgment against Defendant, A.M. Kinney Associates LLC. for damages, together with attorney's fees and costs of suit and such other and further relief as the Court may deem proper.

THIRD COUNT

14. The Plaintiff repeats each and every allegation as set forth in the First and Second Counts of the Complaint as if fully set forth herein

15. The Plaintiff sues the Defendant for reasonable value of services rendered by the Plaintiff to the Defendant upon the promise of the Defendant to pay a reasonable price for same.

16. Payment has been demanded but Defendant failed and/or reused to pay the Plaintiff for such services.

17. There is due from the Defendant the sum of \$120,035.00.

WHEREFORE, Plaintiff demands judgment against Defendant, A.M. Kinney Associates LLC, for damages, together with attorney's fees and costs of suit and such other and further relief as the Court may deem proper.

FOURTH COUNT

18. The Plaintiff repeats each and every allegation as set forth in the First, Second and Third Counts of the Complaint as if fully set forth herein.

19. The Defendant being indebted to the Plaintiff in the sum of \$120,035.00 upon an account stated between them, did promise to pay to the Plaintiff said sum upon demand.

20. Payment has been demanded and Defendant failed and/or refused to do so.

21. There is due from the Defendant the sum of \$120,035.00.

WHEREFORE, Plaintiff demands judgment against Defendant, A.M. Kinney Associates LLC, for damages, together with attorney's fees and costs of suit and such other and further relief as the Court may deem proper.

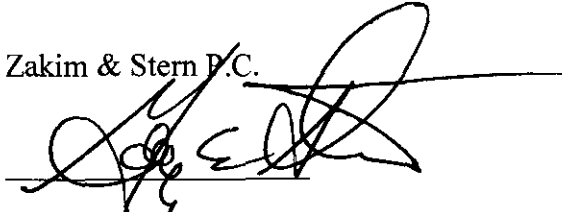
FIFTH COUNT

22. The Plaintiff repeats each and every allegation as set forth in the First, Second, Third and Fourth Counts of the Complaint as if fully set forth herein.

19. The Defendant having received goods and services having a reasonable value of \$120,035.00 would be unjustly enriched if was allowed to retain same without payment therefore.

WHEREFORE, Plaintiff demands judgment against Defendant, A.M. Kinney Associates LLC. for damages, together with attorney's fees and costs of suit and such other and further relief as the Court may deem proper.

Zakim & Stern P.C.


By: Gary E. Stern

March 21, 2012

EXHIBIT A

EXH A



Cox & Company, Inc.
Aged Receivables

2/26/2012
Page

9:09 AM
1

Customer 2005 All Currencies, As of 2/26/2012, Aged By Invoice Date, 00-1100-00-10
Displayed in Native, Current Exchange Rate
Entity: COX

	Invoice ID	Invoice Date	Due Date	Current	Over 30	Over 60	Over 90	Over 120	Total
2005	A.M. KINNEY, INC								
	(USD) \$ M56279	12/10/2010	1/9/2011	0.00	0.00	0.00	0.00	100,994.00	100,994.00
	(USD) \$ M56646	2/2/2011	3/4/2011	0.00	0.00	0.00	0.00	19,041.00	19,041.00
Customer Totals				0.00	0.00	0.00	0.00	120,035.00	120,035.00
(USD) \$				0.00	0.00	0.00	0.00	120,035.00	120,035.00
Currency Totals				0.00	0.00	0.00	0.00	120,035.00	120,035.00